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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,598	10/17/2003	Yu Zheng	PAT-1357-CON	2273
7590	03/07/2005		EXAMINER YIP, WINNIE S	
Raymond Sun 12420 woodhall Way Tustin, CA 92782			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/688,598	ZHENG, YU	
	<b>Examiner</b>	<b>Art Unit</b>	
	Winnie Yip	3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Part II DETAILED ACTION***

This office action is in response to applicant's amendment filed on December 7, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Terminal Disclaimer***

1. The terminal disclaimer filed on December 7, 2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6,698,441 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Claim Rejections - 35 USC § 102***

2. Claims 12-13 stand rejected under 35 U.S.C. 102(e) as being anticipated by Brady (US Patent No. 5,137,044).

Brady shows and teaches a collapsible structure comprising a first panel (R) and a second panel (S), each panel having a foldable frame member (42a, 42b respectively) having a folded and unfolded orientation, a fabric material (22) covering the frame member to form a flat panel when the frame member is in the unfolded orientation, each panel being capably collapsed to a small sized by twisting and folding the frame member (see Figs. 8-16), each panel inherently having a side, the two panels (R, S) are connected and maintained each other at an angle by suitable hinge means (4b), and the second panel (S) is considered to be hingedly coupled to the fabric material (23) of the first panel, wherein the collapsible structure is capably placed on a horizontal surface in a orientation such that the first panel (R) is capable to extend vertically

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form the horizontal surfaces while the second panel (S) extends at an angle from the horizontal surface when the structure is deployed for use.

3. Claims 12-13 and 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Tsai (US Patent No. 5,439,018).

Tsai shows and teaches a collapsible structure comprising two panels each having a foldable frame member (20) having a folded and unfolded orientation, a fabric material (11) covering the frame member to form a flat panel when the frame member is in the unfolded orientation, each panel being collapsed to a small sized by twisting and folding the frame member (see Fig.5), wherein each panel two sides, the two panels are connected and maintained each other at an angel by suitable hinge means at the apex of the sides of the two panels such that a first one of the panel is capable extended vertically form a horizontal surfaces such as the ground surface, and the other second panel extends at an angle from the horizontal surface in the unfolded and erected position, wherein the panels being covered by the fabric material such that the second panel inherently connected to the fabric material of the first panel, and further either one of the panels (the first or second) may have an amusement feature such as a zipped door (112) provided on the fabric of that panel (notice, either one of the panel would be renamed as first or second panel).

4. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Lowenthal (PCT No. WO 97/14863).

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Lowenthal shows and teaches a collapsible structure comprising a first panel (2, the side panel), a second panel (3, the top panel), a third panel (1, the bottom panel), each of the panels including a foldable frame member (5) having a folded and unfolded orientation, a fabric material covering the respective frame member to form a flat panel respectively when the frame member is resumed in an unfolded orientation (see page 7, line 24-37), each panel being collapsed to a small sized by twisting and folding the frame member (see Figs. 6), wherein the second panel (3) extends at an angle from a horizontal surface such as ground surface with the first panel (2) extends vertically from the horizontal surface, each panel having opposite sides such that the side of the second panel (3) is hingedly coupled to the fabric material of the first panel by a seamed sleeve (4), the sloped top edge of the first panel (2) and the sleeve of the first panel provide means for maintaining the second panel at the angle with respect to the horizontal surface, the side of the third panel (1) is hingedly connected to the side of the first panel, and further the first or second panel (2, 3) may have an amusement feature such as a window opening (19) provided on the fabric of one of the panel.

***Claim Rejections - 35 USC § 103***

5. Claim 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tsai '018 as applied to claim 12 above, and further in view of Norman (US Patent No. 5,038,812).

The claim is considered to meet by Tsai as explained and applied above rejection except that Tsai does not define the collapsible structure further having a third panel being hingedly coupled to one side of the first panel. Norman teaches a collapsible structure (100) having at least three panels (108) each having sides being attached together and adjacent to each other for

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supporting the collapsible structure in a self-erecting position. It would have been an obvious matter of design choice to a person of ordinary skill in the art at the time the invention was made, to modify the collapsible structure of Tsai to have three or more panels being coupled together as taught by Norman for providing stronger support to a collapsible structure since Applicant has not disclosed that the structure having an additional panel provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well three panel being couple in arrangement as claimed to provide a collapsible structure with various structural support and configurations to accommodate various application.

### *Response to Argument*

6. Applicant's arguments filed December 7, 2004 have been fully considered but they are not deemed to be persuasive.

In response to applicant's argument that the references to Brady '044 and Tsai '018 do not teach a collapsible structure having the first panel extending vertically from a horizontal surface when the structure is deployed for use as now claimed. It is not deemed persuasive because a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case, since applicant only claims a collapsible structure having two panels angularly connected, the orientation of the panels with respect to the



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horizontal surface merely recites an intended use of the claimed invention. Brady and Tsai are both considered to teach the collapsible structure having the first panel being capable to extend vertically form a horizontal surfaces such as the ground surface while the second panel extends at an angle from the horizontal surface. Notice, the second panel is not necessary place on the same level of the horizontal surface also such that the structure of Brady is capably placed in the vertical orientation with respect to the horizontal surface when deployed in use.

Therefore, rejections are deemed proper.

### ***ACTION IS FINAL***

7. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. ' 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. ' 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

### ***Inquiry Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-5:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip  
Primary Examiner  
Art Unit 3637

wsy  
February 28, 2005